

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

MANDRELL MCCANTS,

Plaintiff,

-against-

9:08-CV-616  
(LEK/DEP)

L. CANNON, Correction Officer, Great  
Meadow Correctional Facility; MURRAY,  
Sergeant, Great Meadow Correctional Facility;  
PREVOST, Correction Officer, Great Meadow  
Correctional Facility,

Defendants.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on October 22, 2008, by the Honorable David E. Peebles, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 25).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Peebles's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 25) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

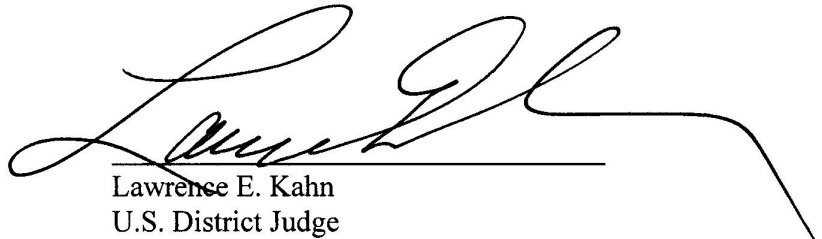
**ORDERED**, that the Defendants' Motion to Dismiss for failure to state a cause of action (Dkt. No. 20) is **GRANTED**; and it is further

**ORDERED**, that the Plaintiff's Amended Complaint (Dkt. No. 16) is **DISMISSED without prejudice** to renewal following complete exhaustion of available internal administrative remedies; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: November 18, 2008  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge